

BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTER OF THE APPEALS OF JAMES	)	APPEAL NOS. 06-A-2407
AND ROBY SWARTLEY AND EYE CENTER	)	THROUGH 06-A-2421
LEASING, LLP from the decision(s) of the Board	)	FINAL DECISION
of Equalization of Ada County for tax year 2006.	)	AND ORDER

**COMMERCIAL PROPERTY APPEAL**

THESE MATTERS came on for consolidated hearing February 1, 2007, in Boise, Idaho, before Hearing Officer Steve Wallace. Board Members Lyle R. Cobbs and David E. Kinghorn participated in this decision. Attorney Richard Stover and Consultant Richard Butler appeared for Appellants. Deputy Assessor Craig Church and Commercial Appraiser Brad Smith appeared for Respondent Ada County. These appeals are taken from a decision of the Ada County Board of Equalization denying the protest of the valuation for taxing purposes of property described by parcel number on Attachment A.

**The issue on appeal is the market value of commercial condominium units.**

**The decision of the Ada County Board of Equalization is reversed.**

FINDINGS OF FACT

The Swartleys parcel, No. R0409000572, has a total assessed value of \$246,600 or about \$155 per square foot. The other Eye Center Leasing parcels have various assessed values centering near the \$155 per square foot rate. It was reported by Eye Center Leasing that the total assessed value of its units under appeal was about \$341,700, or about \$31,700 more than their recent sale price.

Appellants request all the subject parcels be valued based on the recent arm's-length sale of the Eye Center Leasing parcels at \$137.82 per square foot. For the Swartley appeal, the value claim is \$218,168 also based on the noted sale transaction and a price per square foot comparison. For the Eye Center Leasing property, which had not previously been combined into

one parcel to reflect common ownership and use, the individual value claims also reflect a value rate of \$138 per square foot.

The subject properties are adjacent medical suites (condominium units) near St. Lukes Regional Medical Center. The hospital holds a right of first refusal on the future sale of subject units and others in the same development constructed in 1976. The condominium association also limits the use. These special restrictions fundamentally require a medically related use by a certain class of medical providers (owners.) Multiple units make up each of the two suites subject to appeal.

On January 10, 2006 a purchase and sale agreement was signed on the Eye Center Leasing units subject to this appeal. The purchase price was \$310,500 and the transaction closed on February 3, 2006. The property had been listed through a realtor at a slightly higher price in early 2005. Various offers and counter offers occurred during the year with the seller's acceptance at \$310,500 in the fall of 2005. St. Luke's permission soon followed with the eventual closing noted above. The seller was building new medical office space and briefly entered into a lease-back arrangement on the subject property until the new space was available.

Appellants argue the subject sale price and related information is fully consistent with the statutory definition of market value and should be considered the best evidence of value for both subject properties. It is noted the sale also fully reflects the "actual and functional use" of the "real property." Idaho Code §§ 63-201(18), 63-208(1).

The County believes reliance solely on one sale is error and would understate the market value of the subject properties. The Supreme Court's decision in *Janss Corp. v. Bd. of Equalization*, 93 Idaho 928 (1970) is cited. Appellants counter that the County comparable sales

do not reasonably reflect the unique aspects of the subject properties' actual and functional use.

Respondent suggests the standard whereby property for tax purposes is assessed in fee simple, negates any consideration of the property restrictions cited by Appellants. The Assessor reports the subject property was last reappraised in 2004 and those base values were subsequently trended to reflect current price levels at the end of 2005. On appeal, the Assessor prepared income approaches using subject lease information and also considered three comparable sales of medical suites. The three sale dates were in 2003, 2004 and 2005. The 2003 sale was in subjects' medical plaza building for \$140,000, or a rate of \$148 per square foot. The other two sales indicated \$141 and \$154 per square foot. The income approach modeling was described as conservative and indicative of higher market values than the amounts actually assessed.

Under questioning, it was revealed the subject property was not inspected by the Assessor. It also appeared the comparable sales were not closely inspected and that the associated terms and conditions surrounding each sale were unknown to the County Appraiser.

The County presented "before and after" trend results measured by sales ratio studies for medical office property. Exhibit materials also included color photographs of referenced properties, some details on the comparable sale properties and terms of sale, and documentation relating to the lease and sale of the subject property and other referenced properties. The comparable sales were not analyzed in a traditional sales comparison approach to value. They were presented as a point of reference where assessed values and sale prices could be compared on a price per square foot unit of comparison. No specific comparison to the subject properties was performed.

Respondent had concerns with the recent sale of the Eye Center Leasing property. It

appeared no consideration was given to this market information. The expressed goal was to appraise all medical office property uniformly with attention given to a collective analysis of all the sales. To assess a property within plus or minus 10% of its individual sale price was believed to be normal and acceptable results.

### CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following.

The subject medical suites are finished out somewhat differently. However in key respects as to location, use and ownership restrictions, age and construction quality, and condition, they are highly similar. The two properties are adjacent to each other.

The Board finds the timely sale information of some of the subject property is the best evidence of subjects' market values in record. The transaction was consistent with open market conditions and at arm's-length. Granted full closure had not been completed at the assessment date of January 1, 2006, however a price offer and acceptance had occurred by that date. Taken together with the listing history and informed and capable nature of both the seller and the buyer, the price evidence is considered to be good evidence and reflective of subject's unique property attributes. The limited lease-back the County characterized as lower end market rates, does not appear to unduly influence price.

The other evidence of value in the record was that presented by the County. This information was at times subject-specific as in parts of the income approach modeling, but at other times was not specifically adjusted to reflect the subject property. The sales information

on other properties was not persuasively demonstrated to reflect subjects' market values as of January 1, 2006.

The actual and functional use of property should be a major consideration in the assessment of real property. Idaho Code § 63-208(1). Here special restrictions do apply that would reasonably be expected to affect future enjoyment of the subject property and its current market value. See *Brandon Bay, L.P. v. Payette County*, 142 Idaho 681, 132 P.3d 438 (2006); *Greenfield Vill. Apartments, L.P. v. Ada County*, 130 Idaho 207, 938 P.2d 1245 (1997). Using sale price information from property so restricted duly reflects on that property's market value under the circumstances.

The County argument for a value rate higher than the recent subject sale price at \$137.82 was not persuasive. Little information was available on the proxy or comparable sales from which a reasonable comparison could be made to the subject properties.

The Appellants have shown by a preponderance of the evidence that their value position is correct where it reflects squarely on the market value standard. Idaho Code §§ 63-201(10), 63-205(1). In this instance, the recent sale of some of the subject property is the best evidence of market value. Therefore the decision of the Ada County Board of Equalization will be reversed.

#### FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision(s) of the Ada County Board of Equalization concerning the subject parcels be, and the same hereby is, reversed to reflect assessed values based on a rate of \$137.82 per square foot.

IT IS FURTHER ORDERED that any taxes which have been paid in excess of those determined to have been due be refunded or applied against other *ad valorem* taxes due from

Appellants.

DATED this 10<sup>th</sup> day of April, 2007.

## Attachment A

Before the State Board Of Tax Appeals

Fifteen (15) Ada County Appeals

<u>Appellant</u>	<u>Appeal No.</u>	<u>Parcel No.</u>
Swartleys	06-A-2407	R0409000572
Eye Center Lsg	06-A-2408	R0409000495
Eye Center Lsg	06-A-2409	R0409000500
Eye Center Lsg	06-A-2410	R0409000505
Eye Center Lsg	06-A-2411	R0409000510
Eye Center Lsg	06-A-2412	R0409000515
Eye Center Lsg	06-A-2413	R0409000520
Eye Center Lsg	06-A-2414	R0409000525
Eye Center Lsg	06-A-2415	R0409000530
Eye Center Lsg	06-A-2416	R0409000535
Eye Center Lsg	06-A-2417	R0409000540
Eye Center Lsg	06-A-2418	R0409000545
Eye Center Lsg	06-A-2419	R0409000550
Eye Center Lsg	06-A-2420	R0409000555
Eye Center Lsg	06-A-2421	R0409000560